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DIGEST

ISSUE #92

Prioritizing Crucial Health Care in Rural Communities: Urgent Needs and Opportunities for Growth

Rural hospitals are a lifeline to essential health care for countless communities throughout the U.S., but many rural providers are struggling to survive the COVID-19 pandemic. Although challenges that Medicaid programs have historically faced in rural areas have generally worsened during the public health emergency, it has helped shine a brighter light on areas that can be improved.

Check out our latest article to learn more about challenges and opportunities in rural health care.

Key Updates

The Biden administration signed an executive order establishing federal protections around reproductive care access, patient privacy, and other areas after the recent overturning of *Roe v. Wade* (White House, July 8; Fierce Healthcare, July 8).

On July 7, the Centers for Medicare and Medicaid Services (CMS) filed a proposed rule offering advanced shared savings payments to low-revenue accountable care organizations (ACOs), allowing more flexibility for ACOs that take on performance-based risk, and relaxing supervision requirements for behavioral health practitioners (Modern Healthcare, July 7).

On July 12, the Delaware Department of Health and Social Services announced the selection of AmeriHealth Caritas, Highmark Health Options, and Centene to operate its Medicaid managed care program beginning in calendar year 2023. (Health Payer Specialist, July 12; Delaware Health and Social Services, July 12).

From July 7 to July 13, CMS approved five Appendix K waivers and six SPAs, none of which are COVID-19 disaster relief SPAs.

Federal Updates

On July 8, CMS released an updated version of the 2015 CMS Equity Plan for Improving Quality in Medicare providing for a new 10-year plan on health equity in Medicare and other programs administered by CMS.

State Updates

On July 8, the Nebraska Department of Health and Human Services announced it received bids from five managed care organizations as a result of its April 2022 Medicaid managed care request for proposals.

Private Sector Updates

According to a study published in Health Affairs, current diabetes quality measures do not adequately improve quality of care or health outcomes. A disproportionate amount of diabetes patients are minorities and/or rural residents.

Sellers Dorsey Updates

We want to hear from our Digest readers! Tell us how we can improve by completing our super short survey.

FEDERAL UPDATES

News

- On July 8, CMS released an updated version of the 2015 CMS Equity Plan for Improving Quality in Medicare. The new 10-year plan covering 2022–2032 not only focuses on Medicare, but aims to promote health equity in CHIP, Medicaid, and marketplace plans. The five priority areas under the ten-year plan are as follows:
    - Expand the collection, reporting, and analysis of standardized data.
    - Assess causes of disparities within CMS programs, and address inequities in policies and operations to close gaps.
    - Build capacity of health care organizations and the workforce to reduce health and health care disparities.
    - Advance language access, health literacy, and the provision of culturally tailored services.
    - Increase all forms of accessibility to health care services and coverage.

  CMS remains committed to advancing health equity through partnerships with local communities, stakeholders, states, providers, health plans, quality partners, and social service providers (Inside Health Policy, July 8; CMS, July 8).
- The Food and Drug Administration (FDA) has agreed to consider an application that will provide for the sale of birth control pills over the counter (OTC) rather than via prescription. The pharmaceutical company, HRA Pharma, submitted an OTC application of its birth control pill, Opill, and the FDA could approve Opill by next year (Axios, July 11).
- The Biden administration signed an executive order establishing federal protections around reproductive care access, patient privacy, and other areas after the recent U.S. Supreme Court decision to overturn *Roe v. Wade*. The order mandates the Department of Health and Human Services (HHS) to increase public education around reproductive care services, protect access to medication abortion, and protect access to contraception and long-acting reversible contraception. The order also instructs HHS and the Federal Trade Commission (FTC) to better protect patient and consumer privacy and establishes an interagency task force on reproductive health care access that will be responsible for policymaking and program development (White House, July 8; Fierce Healthcare, July 8).
- On July 11, in response to the recently signed executive order concerning reproductive care access protections, CMS issued guidance reaffirming existing policies requiring providers to offer life- or health-saving emergency abortion services. The guidance references the federal Emergency Medical Treatment and Active Labor Act (EMTALA) of 1986, which requires hospitals to screen and provide necessary stabilizing treatment or facility transfers to patients seeking emergency care, as providing protections for emergency abortions in the event of ectopic pregnancy, complications from pregnancy loss, and hypertensive disorders. CMS claims EMTALA constitutes federal authority over certain aspects of abortion law, and preempts state law restricting access to abortions in emergency situations (Modern Healthcare, July 11).
- In a letter to CMS, a dental group coalition requested assistance in expanding access to dental surgical services for children and adults with disabilities or special needs. The coalition asserts the adversity experienced by patients could be lessened with the issuance of new Healthcare Common Procedure Coding System codes for dental surgeries performed under general anesthesia and payment for the codes at a rate that appropriately reflects the cost, based on available Medicare data. The letter also mentioned the coalition is not requesting additional expansion of Medicare dental services beyond dental surgical services (American Dental Association, July 7).
- HHS and the Office of the Assistant Secretary for Planning and Evaluation issued a report to Congress summarizing a unified payment model for long-term care hospitals, rehabilitation facilities, nursing homes, and home health agencies. However, the American Hospital Association (AHA) quickly pointed out the model has several major shortcomings, including failure to provide an appropriate risk adjustment. The

AHA also asserts the model only takes data from 2017-2019 into account and fails to factor in the impact of COVID-19. AHA recommends the model be revised to reflect the current health care delivery system while guaranteeing access to care for all Medicare patients (Fierce Healthcare, July 8).

Federal Regulation

- On July 7, CMS filed a proposed rule (publication in the Federal Register is anticipated for July 29) offering advanced shared savings payments to low-revenue ACOs, allowing more flexibility for ACOs that take on performance-based risk, and relaxing supervision requirements for behavioral health practitioners. The proposed rule also adjusts the ACO benchmarking system to fix glitches in long-term shared savings by incorporating a prospective, external factor and a prior savings adjustment into ACO benchmarks, as well as reducing the cap on negative regional adjustments of national per capita spending for Medicare Part A and Part B services for assignable beneficiaries from -5% to -1.5%. A provision in the proposed rule that decreases provider rates, which is projected to yield $650 million in higher shared savings payments to ACOs, garnered strong opposition from physician organizations, while the National Association of ACOs supports the proposals (Modern Healthcare, July 7).

Federal Litigation

- The U.S. Court of Appeals for the 7th Circuit ruled that St. Anthony Hospital was within its rights to pursue litigation under the Medicaid Act (42 U.S.C. 1396u- 2(f)) against the Illinois Department of Healthcare and Family Services because of its alleged failure to ensure proper payment and adequately oversee the seven insurance companies providing Medicaid managed cares. The St. Anthony Hospital decision follows precedent in a case involving a participant's right to sue under the Medicaid Act (*Health and Hospital Corporation of Marion County v. Talevski*). In the Talevski ruling, the U.S. Court of Appeals for the 7th Circuit concluded that under the Medicaid Act a family had the right to sue a government-owned nursing home concerning its medication and resident transfer policies. The U.S. Supreme Court has decided to hear the Talevski case. If the U.S. Supreme Court upholds a participant's right to sue under the Medicaid Act, this will set the stage for other families, participants and providers to do the same (Modern Healthcare, July 11).

COVID-19

- The COVID-19 omicron subvariant BA.5 has become the dominant strain in the U.S. creating a wave of cases across the country. However, the size of this new infection is unclear as most testing has either stopped or is conducted at home. The Centers for Disease Control and Prevention has reported a little over 100,000 new cases per day on average, but many experts noted the true figure is likely much higher (Washington Post, July 10).

STATE UPDATES

Waivers

- Section 1115
  - On April 28, Nevada updated its request for a new five-year section 1115 demonstration titled, "Nevada's Treatment of Opioid Use Disorders (OUDs) and Substance Use Disorders (SUDs) Transformation Project." The state seeks a limited waiver of the federal Medicaid Institutions for Mental Diseases (IMD) exclusion. CMS will accept public comments through August 4.
- Section 1915(c) Appendix K
  - California
    - Temporarily modifies scope and changes billing processes for day services, non-medical transportation, prevocational services, and supported employment services provided under the Waiver for Californians with Developmental Disabilities.

- Louisiana
  - Authorizes time-limited rate increases for services offered under the Community Choices Waiver (CCW) and Adult Day Health Care Waiver (ADHCW) using American Rescue Plan (ARP) funds.
  - Adds an Assistive Technology service, which pays for an assistive technology device and certain associated costs, under the CCW and ADHCW programs.
  - Modifies the service definition for Home Delivered Meals under the Community Choices Waiver to add the provision of medically tailored meals for certain participants.
- Maine
  - Provides temporary supplemental payments to qualified providers under the Home and Community Based Services (HCBS) for adults with intellectual disabilities or autism spectrum disorder waiver using ARP funds.
  - Extends the date through which service providers must make qualifying bonus payments to staff under five HCBS waivers using ARP funds.
- New York
  - Authorizes a 5.4% cost-of-living adjustment increase for all providers operating under the Children's Waiver based on the New York State 2022-2023 approved budget.
- Oregon
  - Extends a temporary 5% rate increase for providers operating under five HCBS waivers using general funds.

SPAs

- Administrative SPAs
  - Illinois (IL-21-0024, effective December 27, 2021): Provides assurance of Medicaid coverage for non-emergency medically related transportation in accordance with Section 209 of the Consolidated Appropriations Act of 2021.
  - South Dakota (SD-22-0005, effective May 1, 2022): Updates the state's coverage of organ transplant to reflect current state practice more accurately.
  - West Virginia (WV-22-0020, effective April 1, 2022): Updates Third Party Liability requirements as authorized under the Bipartisan Budget Act of 2018 and the Medicaid Services Investment and Accountability Act of 2019.
- Service and Payment SPAs
  - Maryland (MD-22-0010, effective April 1, 2022): Updates the Early and Periodic Screening, Diagnostic and Treatment program eligible provider types, and reimbursement policies, clarifies limitations to dental and audiological services, removes references to the 504 Written Individualized Program.
  - Nevada (NV-21-0012, effective August 27, 2021): Adds doulas, community health workers, and registered pharmacists with corresponding reimbursement methodologies to the state plan.
  - New Hampshire (NH-22-0018, effective May 1, 2022): Changes the reimbursement methodology for non-emergency medical transportation services from a per member per month risk capitated rate, to a flat administrative fee per month and a payment for direct transportation costs.

News

- On July 12, the Delaware Department of Health and Social Services announced contract awards for its managed care contract reprocurement after several delays. The winning health plans include incumbents AmeriHealth Caritas and Highmark Health Options, as well as newcomer Centene. UPMC Health Plan also bid but was not awarded a contract. The new contract period will begin in 2023 (Health Payer Specialist, July 12; Delaware Health and Social Services, July 12).
- On July 11, the South Dakotans Decide Healthcare and Dakotans for Health advocacy groups announced they will be joining forces in a campaign to get state voters to approve a ballot initiative to amend the

state constitution and expand Medicaid coverage. South Dakota is currently one of the 12 holdout states that have not accepted the federal financial incentives to raise the Medicaid adult eligibility income threshold to 138% of the federal poverty level. The two advocacy groups plan to engage their grassroots networks and are already supported by several local health insurers, provider groups, the state's education association, and several other stakeholders (Health Payer Specialist, July 13).

- On July 8, the Nebraska Department of Health and Human Services (DHHS) announced it received bids from five managed care organizations as a result of its April 2022 Medicaid managed care request for proposals (RFP). Nebraska will award five-year contracts in late August to two or three of the following bidders after proposal evaluations: Community Care Plan of Nebraska (dba Healthy Blue), Medica Community Health Plan, Molina Healthcare of Nebraska, Nebraska Total Care, and UnitedHealth Care of the Midlands. The new contracts will simplify provider credentialing, improve electronic visit verification, and integrate dental, physical health, behavioral health, and pharmacy services (Nebraska DHHS, July 8).

PRIVATE SECTOR UPDATES

- According to a study published in *Health Affairs*, current diabetes quality measures do not adequately improve quality of care or health outcomes. A disproportionate amount of diabetes patients are minorities and/or rural residents. As a result, the measures do not accurately reflect the population and "contribute to missed opportunities to align quality measurement with high-quality care and positive outcomes." Researchers recommend utilizing the strategies of Federally Qualified Health Centers (FQHCs) and other safety net providers to gather and report on social determinants of health data. The study suggests that to improve the quality of care for all diabetes patients, new measures and modernization should be the priority, in addition to new metrics for reporting and reimbursement (Fierce Healthcare, July 11).
- In a study published in *Health Affairs*, more than 1,600 hospitals revealed that patients who received acute care at for-profit emergency departments in 2021 were charged an average of $1,218 more for cash price facility fees than patients who received the same care from not-for-profit hospitals. The study also found hospitals with more than 250 beds charged an average of $826 more for emergency care, and system-affiliated hospitals charged an average of $311 more for emergency care than not-for-profit and independent hospitals. The study is the first of its kind to use emergency department facility fee data that must be reported as a result of the 2021 price transparency law (Modern Healthcare, July 11).

SELLERS DORSEY UPDATES

- Check out our latest staff spotlight Q&A with Mari Cantwell, Director, California Services. Her experience as former Medicaid director in California is invaluable to our work helping clients achieve their health care goals.
- Former Pennsylvania Medicaid Director Leesa Allen shares her insights on the unwinding of the public health emergency and impacts on Medicaid with AIS Healthcare in its April 22 article, "With Medicaid Cliff Looming, Payers Scramble to Limit Outflow." Hear more from Leesa and others here.
- We are proud to support Michigan Association of Health Plans' Summer Conference 2022. Our team is happy to be attending this week to collaborate with stakeholders across the health care industry to improve quality and access. We hope to see you there!